



Board of Adjustment Case Report

City of Raleigh
Department of City Planning
One Exchange Plaza
Raleigh, NC 27601
(919) 996-2626
www.raleighnc.gov

Case File: A-97-17

Property Address: 5 North Swain Street

Property Owner: Linda Kimball

Project Contact: Matt Griffith

Nature of Case: A request for a variance from Section 3.4.4.D.1. of the Unified Development Ordinance to allow for parking and vehicular surface areas to be located between a proposed building and the street and a 2'4" side yard setback variance pursuant to Section 1.5.4.D.1.b. to allow for a proposed stoop both of which are part of a proposal for a new detached house that results in having parking between the building and the street and a stoop that is 8" from a side property line on a .08 acre parcel zoned Office Mixed-Use-3 Detached and Neighborhood Conservation Overlay District.

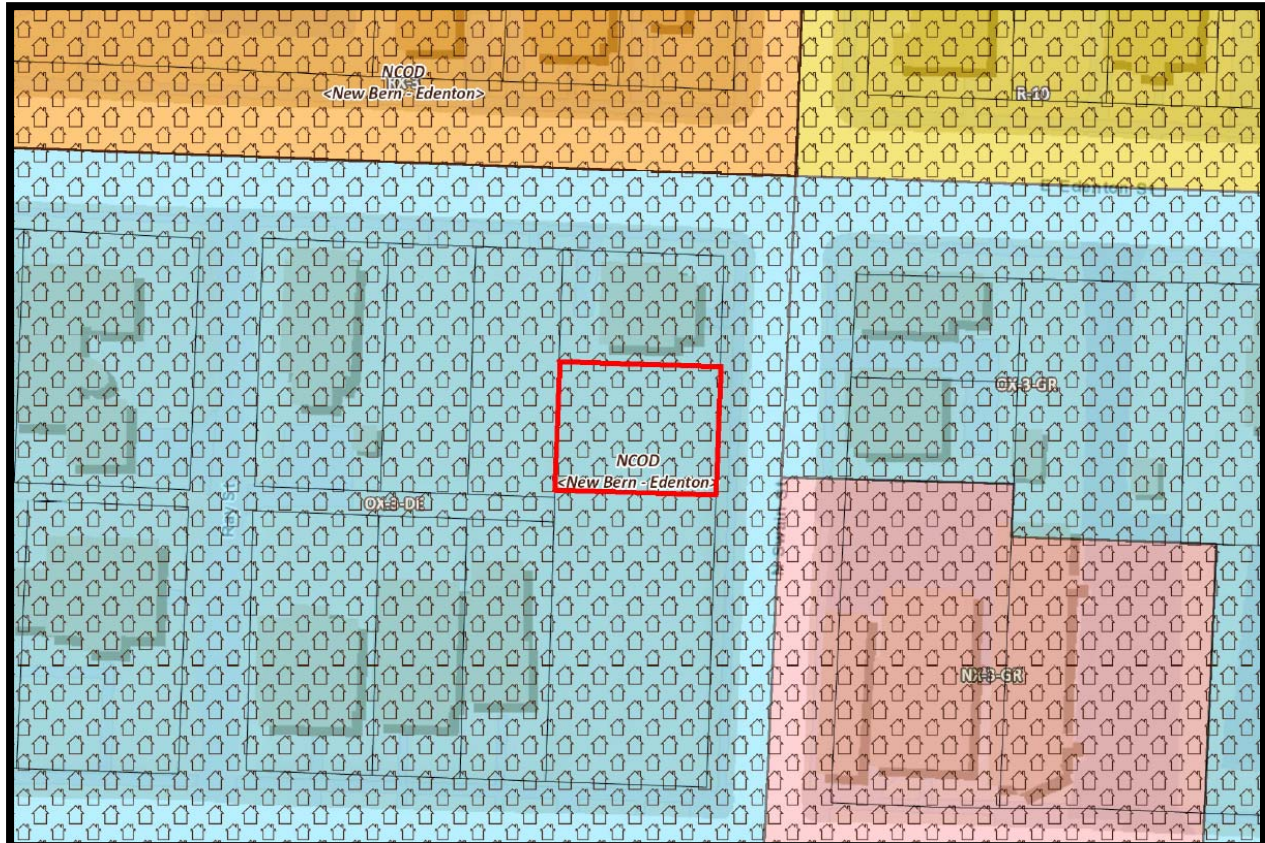


5 North Swain Street – Location Map

To BOA: 8-14-17

Staff Coordinator: Eric S. Hodge, AICP

ZONING
DISTRICTS: Commercial Mixed-Use-3 Parking Limited



5 North Swain Street – Zoning Map

VARIANCE STANDARDS: In accordance with UDO [§10.2.10 Variance](#), before a variance request is granted, the Board of Adjustment shall show all of the following:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
2. The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions

that are common to the neighborhood or the general public, may not be the basis for granting a variance.

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
4. The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured and substantial justice is achieved.

Zoning District Standards: The subject property is zoned Office Mixed-Use-3 Detached and Neighborhood Conservation Overlay District.

CX Primary Structure Setbacks

Primary Street	10'
Side Street	10'
Side	5'
Rear	20'

New Bern – Edenton NCOD

- a. Minimum lot size: 4,000 SF
- b. Minimum lot frontage: 30'
- c. Front yard setback: Minimum of 10', maximum of 25'
- d. Side yard setback: Minimum of 0 feet when minimum building separation is met.
- e. Building separation: Minimum of 10'
- f. Maximum building height: 35'

Sec. 1.5.4.D Setback Encroachments

All buildings and structures must be located at or behind required setbacks, except as listed below. Underground structures covered by the ground may encroach into a required setback.

1. Building Features

- a. Porches (raised structures attached to a building forming a covered entrance) may extend up to 9 feet, including the steps, into a required setback, provided that such extension is at least 3 feet from the vertical plane of any lot line.

b. Stoops (small raised platforms that serve as entrances to buildings) may extend up to 6 feet into a required setback, provided that the landing is at least 3 feet from the vertical plane of any lot line. Stoops may be covered but cannot be fully enclosed.

c. Balconies (platforms projecting from the wall of a building with a railing along its outer edge, often accessible from a door or window) may extend up to 6 feet into a required setback, provided that the landing is at least 3 feet from the vertical plane of any lot line. Balconies can be covered but cannot be fully enclosed.

d. Galleries (covered passages extending along the outside wall of a building supported by arches or columns that are open on 1 side), must have a clear depth from the support columns to the building's façade of at least 8 feet and a clear height above the sidewalk of at least 10 feet. A gallery may extend into a required street setback. A gallery may not extend into a required side setback.

e. Chimneys or flues may extend up to 4 feet, provided that such extension is at least 3 feet from the vertical plane of any lot line.

f. Building eaves, roof overhangs, awnings and light shelves may extend up to 5 feet, provided that such extension is at least 3 feet from the vertical plane of any lot line.

g. Bay windows, oriels, vestibules and similar features that are less than 10 feet wide may extend up to 4 feet, provided that such extension is at least 3 feet from the vertical plane of any lot line.

h. Unenclosed fire escapes or stairways may extend up to 4 feet into a required side or rear setback, provided that such extension is at least 5 feet from the vertical plane of any lot line.

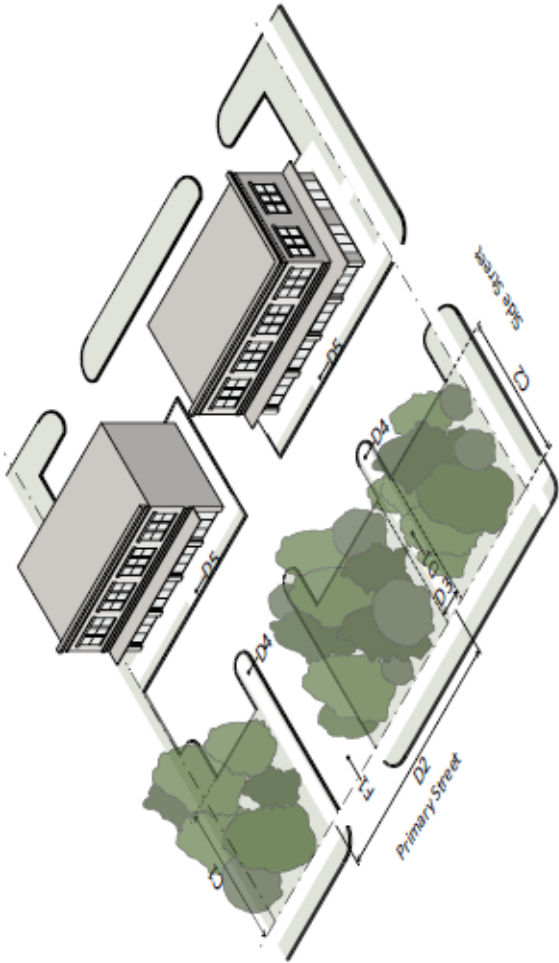
i. Unenclosed patios, decks or terraces may extend up to 4 feet into a required side setback, or up to 8 feet into a required rear setback, provided that such extension is at least 5 feet from the vertical plane of any lot line.

j. Cornices, belt courses, sills, buttresses or other similar architectural features may project up to 1½ feet.

k. Handicap ramps may project to the extent necessary to perform their proper function.

l. If a variance is not required, a building feature may encroach into the right-of-way, provided a license for the use of the right-of-way is obtained from the City, which is terminable at will by the City.

Sec. 3.4.3. Parkway (-PK)



A. Description	
Provides for a heavily landscaped buffer between the roadway and adjacent development to ensure a continuous green corridor along the street right-of-way.	
B. Building Types Allowed	
Detached house (see Sec. 3.2.1.)	General building (see Sec. 3.2.5.)
Attached house (see Sec. 3.2.2.)	Mixed use building (see Sec. 3.2.6.)
Townhouse (see Sec. 3.2.3.)	Civic building (see Sec. 3.2.7.)
Apartment (see Sec. 3.2.4.)	Open lot (see Sec. 3.2.8.)
C. Additional Setbacks	
C1 Building setback from primary street (min)	50'
C2 Parking setback from primary street (min)	50'

D. Pedestrian Access	
D1 Pedestrian access required (minimum of 1 per lot)	Yes
D2 Pedestrian access way spacing (max)	300'
D3 Width of pedestrian access way (min/max)	10'/20'
D4 A road or driveway with a sidewalk at least 6 feet in width may substitute for a required pedestrian access way	
D5 Direct pedestrian access is required from the public sidewalk to the primary entrance of the building	
E. Protective Yard Landscaping	
E1 The 50-foot protective yard must be landscaped in accordance with Sec. 5.3.1.F. (SHOD-1 requirements) or Sec. 5.3.1.H. for expansions and additions.	
F. Protective Yard Encroachments	
F1 Driveways	see Sec. 8.3.5.
F2 Ground signs	see Article 7.3.
F3 Pedestrian access way	
G. Streetscape Requirement	
Sidewalk & tree lawn	see Sec. 8.5.2.G.

Application for Variance



RALEIGH
DEPARTMENT OF
CITY PLANNING



Department of City Planning | 1 Exchange Plaza, Suite 300 | Raleigh, NC 27601 | 919-996-2626

Submit application to: Development Services Customer Service Center, 1 Exchange Plaza, Suite 400, Raleigh, NC 27601

NATURE OF REQUEST	OFFICE USE ONLY
Nature of variance request (if more space is needed, submit addendum on separate sheet): SEE ATTACHED ADDENDUM A	Transaction Number A-97-17
Provide all previous transaction numbers for Coordinated Team Reviews, Due Diligence Sessions, or Pre-Submittal Conferences. If this property was the subject of a previous variance request, provide the case number.	

GENERAL INFORMATION			
Property Address	5 N SWAIN ST., RALEIGH NC, 27601	Date	07/14/17
Property PIN	1703999283	Current Zoning	OX-3-DE, NEW BERN-EDENTON
Nearest Intersection	SWAIN AND EDENTON	Property size (in acres)	.08
Property Owner	LINDA KIMBALL	Phone	1(919)645-8796
Owner's Mailing Address	LINDA KIMBALL PO BOX 61430, RALEIGH, NC 27661	Email	linda.kimball@kimballandcompany.com
Project Contact Person	MATT GRIFFITH	Phone	1(919)264-8555
Contact Person's Mailing Address	704 N PERSON ST. RALEIGH, NC 27604	Email	matt@insitustudio.us
Property Owner Signature		Email	linda.kimball@kimballandcompany.com
Notary	Sworn and subscribed before me this <u>11</u> day of <u>July</u> , 20 <u>17</u>	Notary Signature and Seal	

ADDENDUM A

- 1 OX-DE Article 3.4.4D1 states that "no on-site parking or vehicular surface area is permitted between the building and the street." We are requesting a variance from this requirement because of the size and topographic constraints of the property.

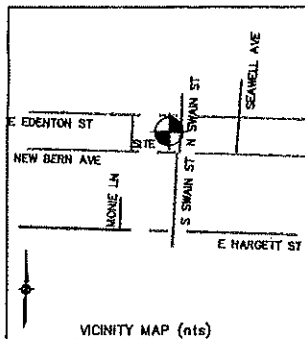
The unusually small size of the lot (0.08 acres, 3,272 SF, 51' W x 63' D) and the site's topography (falling 10' from SW to NE and with a 3'-4' existing wall at the back of the sidewalk) make it infeasible to provide required off-street parking in a manner that complies with the DE frontage requirement. Other houses on the block provide parking in compliance with the frontage via an internal alleyway. 5 North Swain does not have access to this or any other alleyway. On a larger lot, a normal means of compliance would be a driveway to one side of the house with parking in the rear. With this approach on 5 North Swain, an unreasonable portion of the property would be given to driveway, parking, and grading, leaving insufficient room for a house.

The intent of the DE frontage is to maintain a street face defined by detached houses, not cars. 5 North Swain is on a very short block (212' long) that currently has three different frontage conditions on the west side – 1) a detached house that faces Swain, 2) our currently vacant lot, and 3) the side of a house that fronts New Bern Avenue, with parking from the aforementioned alley that is visible from Swain. Across the street, on the east side of Swain, are two detached houses facing Swain and a commercial building that faces New Bern Avenue (zoned NX-3-GR), with rear parking that is accessed and visible from Swain. Given these conditions, it would be difficult to argue that a consistent frontage exists on the street, and the proposed variance is not, in our opinion, disrupting a consistent neighborhood fabric.

The house we are proposing to build on the site includes a two-car garage that will obscure parked vehicles from view, accessed by the minimum-length drive allowable by code (18'). This has been done to minimize the amount of vehicular surface in front of the house and as a good-faith effort to minimize variance from the frontage requirement. We feel our proposal is a reasonable solution on a uniquely small and steep lot that maintains an acceptable aesthetic for the neighborhood.

- 2 Article 1.5.4D1 states that stoops may extend up to 6 feet into a required setback, provided that the landing is at least 2 feet from the vertical plane of any lot line. We are requesting a variance from this requirement for a side stoop that provides the only reasonable access to a sidewalk accessing the rear yard.

Because of the unusually small size of the lot, the proposed house footprint is very close to filling the buildable area. To access the rear yard, we are proposing a sidewalk along the south side lot line, between the house and a new concrete site wall located at the property line. The proposed stoop extends from the south side of the house to access this sidewalk. The stoop is as small as possible for normal use and comes within 8" of the south property line. It is not visible to the neighbors from the south because of the site wall, which also protects the stoop from damage and fire. In our opinion, this variance request does not pose a safety hazard and does not create any inconvenience for adjacent property owners.



SITE TOTAL AREA: 0.08 ac / 3272 SF

EXTERIOR DECK: 380 SF
 GARAGE + STORAGE: 675 SF
 HEATED: 2,845 SF
 REAR PATIO/YARD: 71 SF
 FRONT DRIVE/YARD: 680 SF
 DRIVEWAY: 195 SF
 TOTAL UNDER ROOF: 3,960 SF
 TOTAL IMPERVIOUS: 1,758 SF
 EXISTING/DEMO IMPERVIOUS
 (VACANT SITE): 64 SF (RETAINING WALL)

DRIVEWAY % OF FRONT YARD: 34%
 WALKWAY % OF FRONT YARD: 7%
 IMPERVIOUS % OF TOTAL LOT: 54%
 GARAGE DOOR % OF FRONT FACADE: 45%

HOUSE OFFSETS FROM R/W	
ADDRESS	DISTANCE
7 N SWAIN	10.9'(FACE PORCH)
ONLY HOUSE ADDRESSED ON THIS BLOCK	

- Legend
- IPF Iron Pipe Found
 - ⊗ PP Power Pole
 - Address
 - Ⓜ Roof Drain
 - PCD Proposed Clearout
 - Ⓜ PPM Proposed Water Meter
 - Ⓜ C-PED Cable Pedestal (Replace)

Notes:

1. THE PURPOSE OF THIS SURVEY EXHIBIT IS TO ACCURATELY SHOW THE EXISTING BOUNDARY, EXISTING IMPROVEMENTS, AND PROPOSED IMPROVEMENTS, AS SHOWN HEREON.
2. A BOUNDARY SURVEY WAS DONE IN CONNECTION WITH THIS EXHIBIT BUT DOES NOT COMPLY TO GS47-30 STANDARDS; AND SHOULD NOT BE USED FOR CONVEYANCES, OR SALES.
3. AREAS ARE COMPUTED BY COORDINATE GEOMETRY.
4. THE SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCHES FOR OTHER EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP TITLE EVIDENCE, OR ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.
5. DASHED LINES NOT SURVEYED
6. NCGS MONUMENTATION WAS FOUND WITHIN 2000' FEET OF THIS SURVEY.
7. THERE MAY BE OTHER IMPROVEMENTS NOT DEPICTED ON THIS SURVEY
8. SUBJECT PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD ZONE PER FLOOD INSURANCE RATE MAP (F.I.R.M.) 37020170300J, EFFECTIVE 5/2/08.
9. "HVAC" per Sec 1.5.4.D.2a. NOT CLOSER THAN 3.0' FROM PROPERTY LINE AS SHOWN HEREON.
10. THE BASEMENT LEVEL CONTAINS A 2 CAR GARAGE (per UDO 7.12). PROPERTY IS ADDRESSED AS: 5 NORTH SWAIN

PIN# 1703-99-9283

ZONED: OX-3-DE

OWNER OF RECORD:
 LINDA M. KIMBALL
 1631 ST. MARY'S STREET
 RALEIGH, NC. 27608-2218

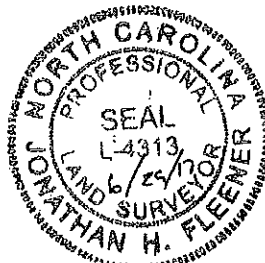
REFERENCES:

DB: 3112, PG.981
 BM: 2013, PG.1134
 DB: 10729, PG.2689
 DB: 2741, PG.2744

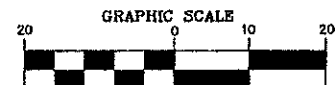
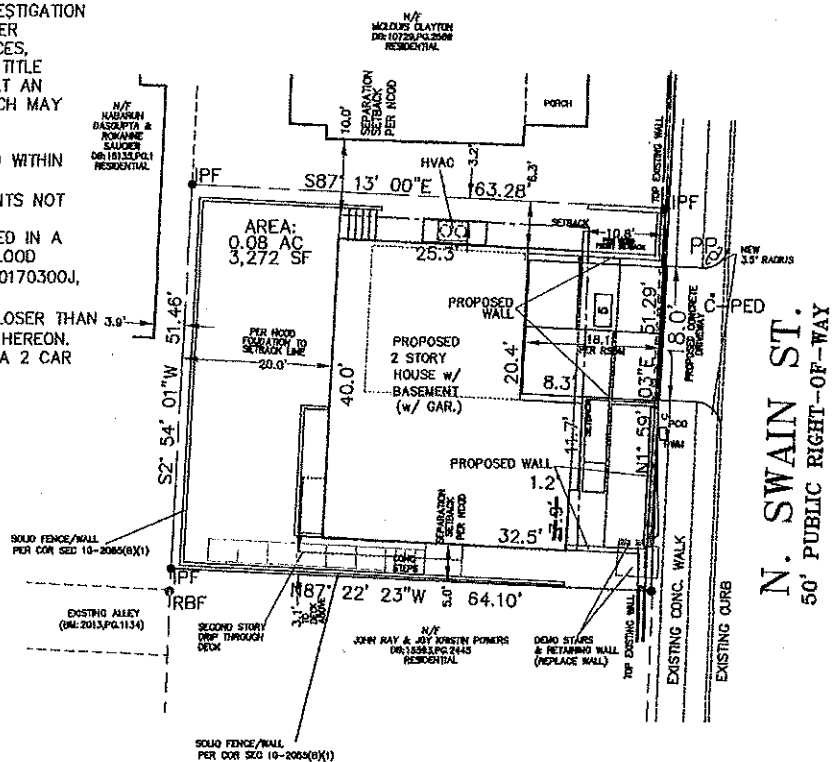
I, Jonathan H. Fleener, PLS L-4313, certify that this map was drawn from an actual field survey performed under my direction and supervision; that the ratio of precision, as calculated is 1:10,000+; that lines not surveyed are shown as dashed lines and drawn from information found in BM: 2013 page 1143; Wake County Registry, Wake Co., NC.

Witness my original signature and seal this 29th day of June, 2017.

[Signature]



"All construction shall be per City of Raleigh and/or NCDOT Standards and Specifications."



(IN FEET)
 1 inch = 20 ft.

PLOT PLAN EXHIBIT FOR JACK & LINDA KIMBALL 5 NORTH SWAIN STREET

Raleigh, Wake Co., NC
 June 29, 2017

8 North Swain Street	Pearl Holland 2004 Tee Dee Street Raleigh, NC 27610
7 North Swain Street	McLouis Clayton 237 Lord Ashley Road Raleigh, NC 27610
6 North Swain Street	Pearl Holland 2004 Tee Dee Street Raleigh, NC 27610
556 East Edenton Street	Nabarun Dasgupta and Roxanne Saucier 556 East Edenton Street Raleigh, NC 27601
554 East Edenton Street	Robby and Ryan Johnston 554 East Edenton Street Raleigh, NC 27601
552 East Edenton Street	Rose and Claire Harris 552 East Edenton Street Raleigh, NC 27601
603 New Bern Avenue	Holland & Holland Eye Care Center 603 New Bern Avenue Raleigh, NC 27601
567 New Bern Avenue	John and Joy Powers 567 New Bern Avenue Raleigh, NC 27601
561 New Bern Avenue	Mark Horney 201 Tarpley Way Garner, NC 27529
559 New Bern Avenue	Michael Vorburger 559 New Bern Avenue Raleigh, NC 27601
557 New Bern Avenue	Nathaniel Currie PO Box 28208 Raleigh, NC 27611